

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 21 April 2004

Division: Growth Management

Bulk Item: Yes X No

Department: Marine Resources

AGENDA ITEM WORDING:

Approval of a Contract with Comcast for the provision of media services to disseminate information to the public concerning the Florida Keys No Discharge Zone.

ITEM BACKGROUND:

Monroe County has been provided grant funds to carry out a public outreach effort concerning the Florida Keys No Discharge Zone (NDZ - in place within State waters of the Florida Keys National Marine Sanctuary). The Board approved the use of Comcast as a sole source at the January 2004 meeting for an amount up to \$32,000. The attached contract with Comcast is provided for the Board's approval as specified at the January meeting.

PREVIOUS RELEVANT BOCC ACTION:

January 2004 – Approval to utilize Comcast as a sole source provider for services up to \$32,000.

CONTRACT/AGREEMENT CHANGES:

Contract attached

STAFF RECOMMENDATIONS:

Approval

TOTAL COST: \$32,000

BUDGETED: Yes X No

COST TO COUNTY: None

SOURCE OF FUNDS: Fund 125, CIAP grant

REVENUE PRODUCING: Yes No X AMOUNT Per Month Year

APPROVED BY: County Atty X OMB/Purchasing X Risk Management X

DIVISION DIRECTOR APPROVAL: Timothy McGarry Director of Growth Management George Bassett

DOCUMENTATION: Included X To Follow Not Required

DISPOSITION:

AGENDA ITEM NO.: K6

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: ComCast Contract #
Effective Date: June 1, 2003
Expiration Date: April, 31 2005

Contract Purpose/Description:

Media services to provide information concernign the existance of the Florida Keys no Discharge Zone

Contract Manager: Garrett 2507 Marine Resources / 11
(Name) (Ext.) (Department/Stop #)

for BOCC meeting on 04/21/04 Agenda Deadline: 04/06/04

CONTRACT COSTS

Total Dollar Value of Contract: \$ 40,278 Current Year Portion: \$ 25,000
 Budgeted? Yes ☒ No ☐ Account Codes: 125-53015-530490-940302-530340
 Grant: \$ 40,278.00
 County Match: \$ 0 CIAP Grant for NDZ work: -

ADDITIONAL COSTS

Estimated Ongoing Costs: \$NA/yr For: NA
(Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	4/14/04	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	4/14/04
Risk Management	4/7/04	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	4/7/04
O.M.B./Purchasing	04/02/04	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	4/7/04
County Attorney	4/7/04	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>[Signature]</u>	4/13/04

Comments: _____

BROADCAST SERVICES CONTRACT

THIS CONTRACT is made and entered into this 21st day of April, 2004, by and between the BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY (COUNTY), and FLORIDA KEYS COMCAST (COMCAST).

WHEREAS, the COUNTY has determined that COMCAST is a sole provider of cable broadcast services in the Florida Keys; and

WHEREAS, the COUNTY deems it important to the preservation of the environment to broadcast information and television infomercials concerning the Florida Keys No Discharge Zone;

NOW, THEREFORE, in consideration of the mutual promises contained in this contract the parties agree as follows:

1. Scope of Services:

- A. COMCAST shall provide production services for the No Discharge Zone infomercial; and
- B. COMCAST shall provide broadcasts of the infomercial as set forth in the attached Comcast Advertising Traffic Order Form and Contract Data Form; and
- C. COMCAST shall provide No Discharge Information on the Information Crawl available on the Weather Channel as specified in the attached Comcast Advertising Traffic and Data Forms, effective November 2003.

2. Term:

- A. The term of this agreement is nunc pro tunc, June 1, 2003 through March 27, 2005.

3. Payment:

- A. For all of the production services, the COUNTY shall pay an amount not to exceed forty thousand, two hundred and seventy-eight dollars (\$40,278.00), upon receipt of an invoice and supporting documentation to establish the completion of the task.
- B. The COUNTY shall pay for the broadcasts at the rates specified in the attached Traffic Order Form, upon receipt of a monthly invoice and supporting documentation to establish the broadcasts were aired.

C. Payment of approved bills shall be made to COMCAST within the time required by the Florida Prompt Payment Act.

D. Payment is contingent upon annual appropriation of funds.

4. Termination:

A. Either party may terminate this agreement upon giving the other prior written notice of at least seven days prior to the termination. COUNTY shall be responsible to pay only such fees as have been generated by services rendered prior to the termination. In no event shall COMCAST continue to provide services, other than the broadcasts which cannot be pulled off the airing schedule, after the receipt of notice of termination.

5. Records:

A. COMCAST shall maintain all books, records, and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. Each party to this Agreement or their authorized representatives shall have reasonable and timely access to such records of each other party to this Agreement for public records purposes during the term of the Agreement and for four years following the termination of this Agreement. If an auditor employed by the COUNTY or Clerk determines that monies paid to COMCAST pursuant to this Agreement were spent for purposes not authorized by this Agreement, the COMCAST shall repay the monies together with interest calculated pursuant to Sec. 55.03, FS, running from the date the monies were paid to COMCAST.

6. Governing Law, Venue, Interpretation, Costs, and Fees:

A. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed entirely in the State.

i. In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of this Agreement, the COUNTY and COMCAST agree that venue will lie in the appropriate court or before the appropriate administrative body in Monroe County, Florida.

ii. The COUNTY and COMCAST agree that, in the event of conflicting interpretations of the terms or a term of this Agreement by or between any of them the issue shall be submitted to mediation prior to the institution of any other administrative or legal proceeding.

7. Severability.

- A. If any term, covenant, condition or provision of this Agreement (or the application thereof to any circumstance or person) shall be declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining terms, covenants, conditions and provisions of this Agreement, shall not be affected thereby; and each remaining term, covenant, condition and provision of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this Agreement would prevent the accomplishment of the original intent of this Agreement. The COUNTY and COMCAST agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

8. Attorney's Fees and Costs.

- A. The COUNTY and COMCAST agree that in the event any cause of action or administrative proceeding is initiated or defended by any party relative to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, court costs, investigative, and out-of-pocket expenses, as an award against the non-prevailing party, and shall include attorney's fees, courts costs, investigative, and out-of-pocket expenses in appellate proceedings. Mediation proceedings initiated and conducted pursuant to this Agreement shall be in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Monroe County.

9. Binding Effect.

- A. The terms, covenants, conditions, and provisions of this Agreement shall bind and inure to the benefit of the COUNTY and COMCAST and their respective legal representatives, successors, and assigns.

10. Authority.

- A. Each party represents and warrants to the other that the execution, delivery and performance of this Agreement have been duly authorized by all necessary County and corporate action, as required by law.

11. Claims for Federal or State Aid.

- A. COMCAST and COUNTY agree that each shall be, and is, empowered to apply for, seek, and obtain federal and state funds to further the purpose of this Agreement; provided that all applications, requests, grant proposals, and funding solicitations shall be approved by each party prior to submission.

12. Adjudication of Disputes or Disagreements.

- A. COUNTY and COMCAST agree that all disputes and disagreements shall be attempted to be resolved by meet and confer sessions between representatives of each of the parties. If no resolution can be agreed upon within 30 days after the first meet and confer session, the issue or issues shall be discussed at a public meeting of the Board of County Commissioners. If the issue or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this Agreement or by Florida law.

13. Cooperation.

- A. In the event any administrative or legal proceeding is instituted against either party relating to the formation, execution, performance, or breach of this Agreement, COUNTY and COMCAST agree to participate, to the extent required by the other party, in all proceedings, hearings, processes, meetings, and other activities related to the substance of this Agreement or provision of the services under this Agreement. COUNTY and COMCAST specifically agree that no party to this Agreement shall be required to enter into any arbitration proceedings related to this Agreement.

14. Nondiscrimination.

- A. COUNTY and COMCAST agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. COUNTY or COMCAST agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101-6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; 8) Title

VIII of the Civil Rights Act of 1968 (42 USC s. et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 1201 Note), as maybe amended from time to time, relating to nondiscrimination on the basis of disability; 10) Any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties to, or the subject matter of, this Agreement.

15. Covenant of No Interest.

- A. COUNTY and COMCAST covenant that neither presently has any interest, and shall not acquire any interest, which would conflict in any manner or degree with its performance under this Agreement, and that only interest of each is to perform and receive benefits as recited in this Agreement.

16. Code of Ethics.

- A. COUNTY agrees that officers and employees of the COUNTY recognize and will be required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, Florida Statutes, regarding, but not limited to, solicitation or acceptance of gifts; doing business with one's agency; unauthorized compensation; misuse of public position, conflicting employment or contractual relationship; and disclosure or use of certain information.

17. No Solicitation/Payment.

- A. The COUNTY and COMCAST warrant that, in respect to itself, it has neither employed nor retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of the provision, the COMCAST agrees that the COUNTY shall have the right to terminate this Agreement without liability and, at its discretion, to offset from monies owed, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

18. Public Access.

- A. The COUNTY and COMCAST shall allow and permit reasonable access to, and inspection of, all documents, papers, letters or other materials in its possession or under its control subject to the provisions of Chapter 119, Florida Statutes, and made or received by the COUNTY and COMCAST in conjunction with this Agreement; and the COUNTY shall have the right to

unilaterally cancel this Agreement upon violation of this provision by COMCAST.

19. Non-Waiver of Immunity.

- A. Notwithstanding the provisions of Sec. 286.28, Florida Statutes, the participation of the COUNTY and the COMCAST in this Agreement and the acquisition of any commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by the COUNTY be required to contain any provision for waiver.

20. Privileges and Immunities.

- A. All of the privileges and immunities from liability, exemptions from laws, ordinances, and rules and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees of any public agents or employees of the COUNTY, when performing their respective functions under this Agreement within the territorial limits of the COUNTY shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, volunteers, or employees outside the territorial limits of the COUNTY.

21. Legal Obligations and Responsibilities:

- A. Non-Delegation of Constitutional or Statutory Duties. This Agreement is not intended to, nor shall it be construed as, relieving any participating entity from any obligation or responsibility imposed upon the entity by law except to the extent of actual and timely performance thereof by any participating entity, in which case the performance may be offered in satisfaction of the obligation or responsibility. Further, this Agreement is not intended to, nor shall it be construed as, authorizing the delegation of the constitutional or statutory duties of the COUNTY, except to the extent permitted by the Florida constitution, state statute, and case law.

22. Non-Reliance by Non-Parties.

- A. No person or entity shall be entitled to rely upon the terms, or any of them, of this Agreement to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and the COUNTY and the COMCAST agree that neither the COUNTY nor the COMCAST or any agent, officer, or employee of either shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this Agreement separate and apart, inferior to, or superior to

the community in general or for the purposes contemplated in this Agreement.

23. Attestations.

- A. COMCAST agrees to execute such documents as the COUNTY may reasonably require, to include a Public Entity Crime Statement, an Ethics Statement, and a Drug-Free Workplace Statement.

24. No Personal Liability.

- A. No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

25. Execution in Counterparts.

- A. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

26. Section Headings.

- A. Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provision of this Agreement.

27. Indemnify/Hold Harmless.

- A. Contractor agrees to indemnify and save COUNTY harmless from and against all claims and actions and expenses incidental thereto, arising out of damages or claims for damages resulting from the negligence of Contractor, its agents, or employees while Contractor is cleaning the Airport facilities. However, Contractor shall not be liable for any claims, actions or expenses which arise from the negligent or intentional acts or omissions of the COUNTY, its agents or employees. The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement.

IN WITNESS WHEREOF, the parties hereto have set their signatures the date first above written.

Attest:
DANNY L. KOLHAGE, CLERK

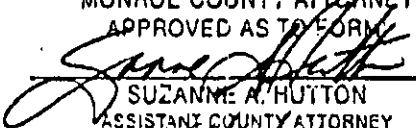
BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY

By: _____
Deputy Clerk

By: _____
Murray E. Nelson, Mayor

COMCAST

By: _____
President

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM

SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date 7/13/04

Date: 2/4/2004 AE: G Murphy Client # 9201
 Entered: Start Date: 4/20/2004 Contract#:
 By: End Date: 4/17/2005 Remarks: Generic

New Order ☒ Broadcast ☐ NEW CLIENT ☐
 Revision ☐ Calendar ☐ RENEWAL CLIENT ☒
 Cancellation ☐

Client # 9201	Agency #	Rep Firm #
Name No Discharge Zone Working Group	Name	Name
Address 2758 Ocas Highway, Suite 420	Address	Address
City, State Marathon, FL	City, State	City, State
Zip Code 33050	Zip Code	Zip Code
Telephone 305-289-2812 fax: 283-2536	Telephone cell: 849-3047	Telephone
Contact Lisa Corey	Contact	Contact

Contract Type: ☐ Standard ☐ PSA/Promo ☐ Coop ☐ Political

Affidavit Type: ☐ No PGM ☐ No Cost ☐ Summary ☐ Full Detail

Notary Required: ☐ Yes ☐ No

Revenue Type: ☐ CO-OP ☐ WEATHER ☐ OTHER ☐

SECONDARY REFERENCE:

FLORIDA KEYS
COMCAST ADVERTISING
TRAFFIC ORDER FORM

LOCAL ☐ NATIONAL ☐ INFORMATIONAL ☐ PRODUCTION ☐ L.O. ☐

LN	RET	START DATE	STOP DATE	START TIME	STOP TIME	WKS ON	WKS OFF	AUTHORIZED							TOTAL SPOTS	UNIT COST	TOTAL COST	N. DATE	S. BWD	S. DATE	MTWTFSS	CRL SP.	MAR	KEYS	E. BWD	W. BWD	HIA	DAVIE	AVEN	FT. L	WSTN
1															0		\$0.00														
2															0		\$0.00														
3	CNN	4/20/2004	4/17/2005	6A	M			x	x	x	x	x	x	x	364	13.00	\$4,732.00							x							
4	DISC	4/20/2004	4/17/2005	6A	M			x	x	x	x	x	x	x	364	13.00	\$4,732.00							x							
5	A&E	4/20/2004	4/17/2005	6A	M			x	x	x	x	x	x	x	364	9.00	\$3,276.00							x							
6	TNT	4/20/2004	4/17/2005	6A	M			x	x	x	x	x	x	x	364	8.25	\$3,003.00							x							
7	LIFE	4/20/2004	4/17/2005	6A	M			x	x	x	x	x	x	x	364	10.00	\$3,640.00							x							
8	TBS	4/20/2004	4/17/2005	6A	M			x	x	x	x	x	x	x	364	8.25	\$3,003.00							x							
9	ESPN	4/20/2004	4/17/2005	6A	M			x	x	x	x	x	x	x	364	15.00	\$5,460.00							x							
10	USA	4/20/2004	4/17/2005	6A	M			x	x	x	x	x	x	x	364	8.00	\$2,912.00							x							
11															0		\$0.00														
12															0		\$0.00														
13															0		\$0.00														
14															0		\$0.00														
15															0		\$0.00														
16															0		\$0.00														
17															0		\$0.00														

PAGE 1 OF 1 Totals 2,912 \$30,758.00 Discount 0% \$30,758.00 Net Total

PLEASE INDICATE THE MONTHLY BILLING FOR THIS CONTRACT BELOW:

JAN 2,957	APR 592-1774	JULY 2,366	OCT 2,958
FEB 2,366	MAY 2,957	AUG 2,653	NOV 2,366
MAR 2,366	JUNE 2,366	SEPT 2,366	DEC 2,366

LSM Signature

Comcast Business Office

Agency Discount

Advertiser/Agency Signature

By signing the above Advertiser/Agency agrees to the terms and conditions as set forth on the reverse side.

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Date: 10/7/2003 AE: G Murphy Client # 8775
 Entered: Start Date: 4/20/2004 Contract#: Revision: ☐
 By: End Date: 5/17/2005 Remarks: Generic Cancellation: ☐

New Order ☒ Broadcast ☐ NEW CLIENT ☐
 Calendar ☐ RENEWAL CLIENT ☒

Client # 8775	Agency #	Rep Firm #
Name Monroe County Education/Outreach	Name	Name
Address 2795 Overseas Hwy	Address	Address
City, State Marathon, FL	City, State	City, State
Zip Code 33040	Zip Code	Zip Code
Telephone 305-289-2812	Telephone	Telephone
Contact Lisa Corey/ FI Keys Marine Sanctuary	Contact	Contact

Contract Type: Standard ☐ Affidavit Type: No PGM ☐ Notary Required: ☐ Yes
 PSA/Promo ☐ No Cost ☐ LOCAL ☐ Revenue Type: CO-OP ☐
 Coop ☐ Summary ☐ NATIONAL ☐ WEATHER ☐
 Political ☐ Full Detail ☐ COMMERCIAL ☐ OTHER ☐
 PRODUCTION ☐ SECONDARY REFERENCE: ☐

**FLORIDA KEYS
 COMCAST ADVERTISING
 TRAFFIC ORDER FORM**

LN	NET	START DATE	STOP DATE	START TIME	STOP TIME	WKS ON	WKS OFF	AUTHORIZED							TOTAL SPOTS	UNIT COST	TOTAL COST	N. DADE	S. BVD	S. DADE	MIAMI	CRF SP.	MAR	KEYS	E. BVD	W. BVD	HIA	DAVE	AVEN	FT. L.	WSTN
1															0		\$0.00														
2															0		\$0.00														
3	TWC	4/20/2004	4/17/2005	m	m			x	x	x	x	x	x	x	52	140.00	\$7,280.00							x							
4															0		\$0.00														
5															0		\$0.00														
6															0		\$0.00														
7															0		\$0.00														
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16															0		\$0.00														
17															0		\$0.00														
PAGE 1 OF 1		Totals				52		\$7,280.00		Discount 0%		\$7,280.00		Net Total																	

PLEASE INDICATE THE MONTHLY BILLING FOR THIS CONTRACT BELOW.

LSM Signature _____ JAN 700 APR 140-420 JULY 550 OCT 700
 FEB 550 MAY 700 AUG 700 NOV 550
 Comcast Business Office _____ MAR 550 JUNE 550 SEPT 550 DEC 550

Agency Discount

Advertiser/Agency Signature

By signing the above Advertiser/Agency agrees to the terms and conditions as set forth on the reverse side.

George Murphy c/o



1010 Kennedy Dr
Key West, FL 33040

INVOICE

4/5/04

Monroe County Education Outreach
Lisa Corey

Contract # 58380 Weather

Month	Invoice	Amount
11.03	106057	420.00
12.03	107624	560.00
1.04	108989	560.00
2.04	110267	700.00
Total Due		\$2,240